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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/052,348	01/22/2002	Rajendra P. Gupta		7081

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EXAMINER

WEIER, ANTHONY J

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 03/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/052,348

Applicant(s)

GUPTA, RAJENDRA P.

Examiner

Anthony Weier

Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 16-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Group I in the paper filed 12/2/2003 is acknowledged.

Specification

2. The disclosure is objected to because of the following informalities:

The paragraph bridging pages 1 and 2 appears to be missing at least a line¹.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 1 and 4, the reference to the singular "enzyme" in the last line is indefinite in that the preamble of these claims refers to inactivating plural enzymes.

In claims 7-12, the phrase "cooking temperature" is indefinite in that it is not clear as to what is encompassed by such terminology. The specification gives little definition in that it sets forth only that it is "usually above 100 C" (see page 3). Is Applicant only claiming a range of "above 100 C"? If not, where is the lower limit for "cooking temperature".

¹ It appears that the text is missing a reference to U.S. Patent No. 4,915,972

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 63063358.

JP 63063358 discloses a process of applying heat (over 100 C and also including the use of steam injection) and pressure in a process involving disintegrating of soybeans and, in doing so, creating a slurry.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 63063358 taken together with JP 69140845.

If it is shown that JP 63063358 does not disintegrate or contribute to disintegration of the soybean during filtering under pressure, it should be noted that it is known to grind soybeans under pressure. JP 69140845 teaches grinding soybeans under pressure and heat wherein such action contributes in reducing the incidence of odor due to lipoxygenase activation. It would have been obvious to one having ordinary

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skill in the art at the time of the invention to have modified the process of JP 63063358 to include employing pressure and heat during grinding as a way to further contribute to reducing odor attributed to soy milk.

5. Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied in either one of paragraphs 3 or 4 and further in view of Gupta et al (U.S. Patent No. 4744524).

The claims further call for treatment in an oxygen-free environment. However, it is well known to process soybeans in an oxygen-free environment as a way to minimize or eliminate beany flavor. Gupta et al, for example, teaches same (see col. 1, lines 59-66). It would have been obvious to one having ordinary skill in the art at the time of the invention to have processed soybean in an oxygen-free environment to remove beany flavor and/or as an added preventive measure in doing so.

6. Claims 7-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied in any one of paragraphs 3-5 further in view of Nsofor.

The claims further call for a vacuum deodorizing step of the slurry. However, such is well known in soybean processing as taught, for example, by Nsofor (see col. 7). It would have been obvious to one having ordinary skill in the art at the time of the invention to have employed same as an art recognized step used in removing or contributing in removing odors during soybean processing.

The claims further call for the further extraction of the liquid from the slurry and that same is achieved by centrifugal extraction. However, it is known to do same as taught, for example, by Gupta et al (see col. 4, lines 5-8). It would have been further

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obvious to have employed such separation step as a known alternative processing step for obtaining soy milk.

7. Claims 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied in any one of paragraphs 3-5 further in view of Uchi et al .

The claims call for vacuum deodorizing the extracted liquid food product (rather than the slurry). However, such is well known in the art as taught, for example, by Uchi et al (col. 4) and doing so in conjunction with using an oxygen-free environment.

Absent a showing of unexpected results, it would have been further obvious to have provided such vacuum treatment as a method for removing odor from any component of the processed soybean as a matter of preference.

The claims further call for the further extraction of the liquid from the slurry and that same is achieved by centrifugal extraction. However, it is known to do same as taught, for example, by Gupta et al (see col. 4, lines 5-8). It would have been further obvious to have employed such separation step as a known alternative processing step for obtaining soy milk.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony Weier whose telephone number is 571-272-1409. The examiner can normally be reached on Monday-Friday.

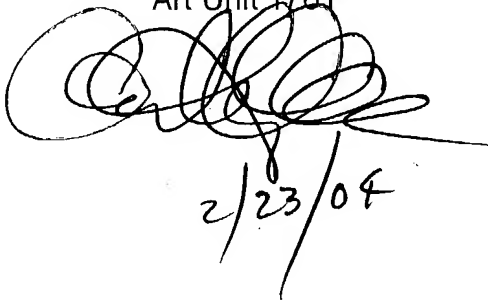
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Anthony Weier
February 23, 2004

Anthony Weier
Primary Examiner
Art Unit 1761



2/23/04